

# Notice of Allowability

Application No.

09/945,273

Examiner

Michael J. Simitoski

Applicant(s)

MATSUYAMA ET AL.

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response of 3/23/2007.
2. ☒ The allowed claim(s) is/are 1-3, 6-17, 20-25 and 28.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 20070522.

7. ☒ Examiner's Amendment/Comment

8. ☐ Examiner's Statement of Reasons for Allowance

9. ☐ Other \_\_\_\_\_

  
**KAMBIZ ZAND**  
SUPERVISORY PATENT EXAMINER

### DETAILED ACTION

1. The response of 3/23/2007 was received and considered.
2. Claims 1-28 are pending.
3. Claims 4-5, 18-19 & 26-27 are canceled via Examiner's amendment, beginning on p. 3 of this Action.
4. Claims 8-9 & 22-23 are rejoined, as per below.
5. Claims 1-3, 6-17, 20-25 & 28 are allowed.

### *Election/Restrictions Rejoinder*

6. Claims 1-3, 6-7, 10-17, 20-21, 24-25 & 28 are allowable. The restriction requirement among species, as set forth in the Office action mailed on 7/31/2006, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claim 8-9 & 22-23, directed to requiring the identification certificate, are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim. However, claims 26-27, directed to allowing the content to be used on the secure container receiving device, provided that the user has been authenticated, are withdrawn from consideration because they do not all require all the limitations of an allowable claim. Claims 4-5 & 18-19, while containing all the limitations of an allowable claim, are cancelled based on their subject matter being incorporated into claims 6-7 & 20-21, respectively (duplicate claims).

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In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### EXAMINER'S AMENDMENT

7. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Joel Merkin (312-876-2851) on 5/23/2007.

The application has been amended as follows:

**PLEASE CANCEL** claim 4.

**PLEASE CANCEL** claim 5.

IN CLAIM 8, (now currently rejoined), **PLEASE REPLACE** "Claim. 1" with "claim 1".

IN CLAIM 8, (now currently rejoined), **PLEASE REMOVE the limitation** "said content distributor is a service provider and" from line 2.

IN CLAIM 9, (now currently rejoined), **PLEASE REPLACE** "Claim. 1" with "claim 1".

IN CLAIM 8, (now currently rejoined), **PLEASE REMOVE the limitation** "said content distributor is a service provider and" from line 2.

**PLEASE CANCEL** claim 18.

**PLEASE CANCEL** claim 19.

IN CLAIM 22, (now currently rejoined), **PLEASE REPLACE** "Claim. 15" with "claim 15".

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IN CLAIM 23, (now currently rejoined), **PLEASE REPLACE** "Claim. 15" with "claim 15".

**PLEASE CANCEL** claim 26.

**PLEASE CANCEL** claim 27

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Simitoski whose telephone number is (571) 272-3841.

The examiner can normally be reached on Monday - Thursday, 6:45 a.m. - 4:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on (571) 272-3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJS



May 22, 2007



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